

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DONALD BOOKER,  
Plaintiff,

v.

COMMISSIONER OF SOCIAL  
SECURITY,  
Defendant.

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CIVIL ACTION NO. 19-CV-1033

**MEMORANDUM OPINION**

**RICHARD A. LLORET  
U.S. MAGISTRATE JUDGE**

**October 31, 2019**

Donald Booker was denied social security benefits by the decision of an Administrative Law Judge (“ALJ”). Mr. Booker contends that the ALJ’s unfavorable decision was reached in error. Doc. No. 18, at 5–16 (Plaintiff’s brief). Mr. Booker argues that (1) the presiding ALJ’s appointment was improper under the Appointments Clause of the Constitution; (2) the ALJ erred by not aiding Mr. Booker, who was unrepresented at the time, in presenting his claim; and (3) the ALJ improperly found some of his impairments to not be severe, at step two. *Id.* In response, the Commissioner of Social Security (“Commissioner”) conceded that further evaluation is warranted and requested that this case be remanded.<sup>1</sup> Doc. No. 19 (Defendant’s Uncontested Motion to Remand). The Commissioner has represented that Mr. Booker’s counsel consented to his request. *See id.*

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<sup>1</sup> The Commissioner agreed that the “Appeals Council will further evaluate [Mr. Booker’s] claim and direct an Administrative Law Judge for further proceedings, including, but not limited to, evaluating [Mr. Booker’s] mental impairments and further discussing whether medical improvement was demonstrated; providing [Mr. Booker] with the opportunity for a new hearing; if necessary, obtaining supplemental vocational expert evidence; and issuing a new decision.” Doc. No. 19.

Because the parties agree that the ALJ erred in the evaluation of Mr. Booker's disability claim, Mr. Booker's request for review is granted, the final decision of the Commissioner is reversed, and this matter is remanded to the Commissioner further proceedings.

**BY THE COURT:**

*s/Richard A. Lloret*  
**RICHARD A. LLORET**  
**U.S. Magistrate Judge**